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John K. Fitzgerald, Reg. No. 38,881

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/826498  
Applicant : Xiugao Liao  
Filed : April 16, 2004  
Title : HIGH REFRACTIVE INDEX AND OPTICALLY CLEAR  
COPOLY(CARBOSILANE AND SILOXANE) ELASTOMERS  
Art Unit : 1712  
Examiner : Marc S. Zimmer | ~~10/13/2005 REJECTION 00000036-10836498~~  
Docket No.: : STAAR-68373 | ~~01 FC:2814~~ ~~65.00-8P~~  
Customer No. : 24201

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE DOUBLE PATENTING REJECTION

UNDER 37 C.F.R. § 1.321

Dear Sir:

Petitioner, STAAR Surgical Company, Inc., a California corporation having a place of business at 1911 Walker Avenue, Monrovia, CA 91016, is the assignee and owner of 100 percent interest in the instant application, Application No. 10/836,498, filed on April 16, 2004, for HIGH REFRACTIVE INDEX AND OPTICALLY CLEAR COPOLY(CARBOSILANE AND SILOXANE) ELASTOMERS, which is a divisional application of 10/308,803, filed December 3, 2002, as recorded at Reel 014777, Frame 0110 on June 25, 2004. The assignment document has been reviewed, and petitioner hereby certifies that, to the best of petitioner's knowledge and belief, title in the instant application, Serial No. 10/836,498, is in petitioner.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, that would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer of prior application of 10/308,803, filed December 3, 2002, as recorded at Reel 014777, Frame 0110 on June 25, 2004, which is also owned by petitioner. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

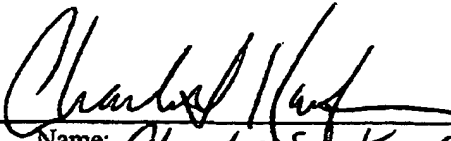
Respectfully submitted,

STAAR Surgical Company

Date:

September 30, 2005

By

  
Name: Charles S. Kautman  
Title: VP, Gen'l Counsel